

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Crl.MC.No. 2307 of 2007()

CP.60/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, OTTAPPALAM
.....

PETITIONER: ACCUSED NO.5.

AKBAR, S/O. ABDUL RAHIMAN,
PADINJAREPEEDIKAKKAL HOUSE, RAILWAY STATION ROAD,
OTTAPPALAM, PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS: RESPONDENT.

STATE - REPRESENTED BY S.I. OF POLICE,
MANNARKKAD, THORUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17/07/2007, THE COURT ON 19/07/2007 PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.2307 of 2007

Dated this the 19th day of July, 2007

O R D E R

The petitioner faces indictment for offence punishable, inter alia, under Section 307 read with 149 I.P.C. Investigation is complete. Final report has also been filed. The petitioner, who was enlarged on bail in the course of investigation, did not appear before the learned Magistrate after the final report was filed. Subsequently reckoning him as an absconding accused, the learned Magistrate has split up the case against him and was renumbered as C.P.No.60 of 2006. The case against the co-accused is pending before the Assistant Sessions Court at Ottappalam as S.C.No.446 of 2006.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful. He was not available in India. He had not known about the initiation of the committal proceedings. The petitioner is prepared to appear before the learned Magistrate and co-operate with the learned Magistrate for the expeditious disposal of the case. The petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-

